FILED
JAN 9 1995
OFFICE OF THE CLERK

No. 94-1022

In The

Supreme Court of the United States

October Term, 1994

McDERMOTT INTERNATIONAL, INC.,

Petitioner,

v.

ROSEMARY BEASLEY, WIFE OF/AND GEORGE BEASLEY,

Respondents.

On Petition For A Writ Of Certiorari To The Supreme Court Of The State Of Louisiana

OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

WIEDEMANN & WIEDEMANN
821 Baronne Street
New Orleans, Louisiana
70113

LAWRENCE D. WIEDEMANN
KARL WIEDEMANN
Counsel of Record
821 Baronne Street
New Orleans, Louisiana
70113
Telephone: (504) 581-6180
Telecopier: (504) 581-4336

Attorneys for Respondents, Rosemary Beasley, wife of/and George Beasley

COCKLE LAW BRIEF PRINTING CO., (800) 225-6964
OR CALL COLLECT (402) 342-2831

LIST OF PARTIES

The following are parties to this proceeding:

1. Rosemary Beasley wife of/and George Beasley, plaintiffs/respondents
2. McDermott International, Inc., defendant/applicant
3. CIGNA Property & Casualty Insurance Company, party-defendant

TABLE OF CONTENTS

Page

LIST OF PARTIES i

TABLE OF CONTENTS ii

TABLE OF AUTHORITIES iii

STATEMENT OF THE CASE 1

REASONS FOR DENYING THE WRIT 5

1. THE LOUISIANA SUPREME COURT PROPERLY APPLIED THE HOLDINGS OF THE CONTROLLING DECISIONS OF THIS COURT TO THE FACTS OF THIS CASE 5

2. THE WRIT SHOULD NOT BE GRANTED BECAUSE THE EMPLOYMENT CONTRACT OF NOVEMBER 20, 1990, IS A PARADIGMATIC CONTRACT OF ADHESION 7

3. THE WRIT SHOULD NOT BE GRANTED BECAUSE APPLICANT HAS FAILED TO CONCLUSIVELY ESTABLISH THE ADEQUACY OF THE FOREIGN LAW SOUGHT TO BE IMPOSED 9

OPPOSITION TO APPLICANT'S REASONS FOR GRANTING THE WRIT 11

CONCLUSION 17

APPENDICES ..... A-i

TABLE OF AUTHORITIES

Page

CASES:

Bilyk v. Vessel Nair, 754 F.2d 1541 (9th Cir. 1985) 15

Black Diamond Steamship Corp. v. Robert Stewart & Sons, Ltd., 336 U.S. 386 (1949) 10

Coats v. Penrod Drilling Corp., 5 F.3d 87 (5th Cir. 1993)..... 14

Dalla v. Atlas Maritime Co., 562 F.Supp. 752, 755-56 (C.D. Calif., 1983) aff'd, 771 F.2d 1277 (9th Cir. 1985)..... 7

Fisher v. Agios Nicholas V, 628 F.2d 308 (5th Cir. 1980)..... 8

Fogelman v. Armco, 920 F.2d 278 (5th Cir. 1991)...14, 15

Hellenic Lines Ltd. v. Rhoditis, 398 U.S. 306 (1970)....*passim*

Lauritzen v. Larsen, 345 U.S. 571 (1953) ..... *passim*

McCraine v. Hondo Boats, Inc., 399 So.2d 163 (La. 1981)..... 12

Powell v. McDermott, Inc., 588 So.2d 84 (La. 1991) 1, 6, 11

Romero v. International Terminal Operating Co., 358 U.S. 354 (1959) 5

Schexnayder v. McDermott International, Inc., 817 F.2d 1159 (5th Cir. 1987)..... 13, 14, 15

Symonett Shipyards, Ltd. v. Clark, 365 F.2d 464 (5th Cir. 1966) 9, 10, 14, 15

Tjonaman v. A/S Glittre, 340 F.2d 290 (2nd Cir. 1965)..... 15

TABLE OF AUTHORITIES – Continued

Page

STATUTES, CODAL PROVISIONS AND RULES:

28 U.S.C. § 1333(1) 2, 11

MISCELLANEOUS:

G. Gilmore and C. Black, "The Law of Admiralty" 476 (2d Ed. 1975) 8

STATEMENT OF THE CASE

In August, 1982, McDermott International, Inc., a Panamanian corporation, with its executive offices in New Orleans, Louisiana, was a wholly owned subsidiary of McDermott, Inc., a Delaware corporation domiciled in New Orleans, Louisiana, with its executive and board offices in the same building as its subsidiary corporation in New Orleans, Louisiana. Both corporations share most of the same officers and board members, predominantly residents of New Orleans.

During the pendency of **Powell v. McDermott, Inc.**, 588 So.2d 84 (La. 1991), the Delaware corporation became a wholly owned subsidiary of McDermott International, Inc., the Panamanian corporation. Both corporations continued to maintain their executive and board offices in the same building in New Orleans, Louisiana, and continued to share most of the same officers and board members, predominantly residents of New Orleans.

McDermott's offices in New Orleans, Louisiana, occupy 29,048 square feet of space, whereas its offices in Panama occupy less than 800 square feet.

All board meetings and shareholder meetings of the two corporations are held simultaneously in New Orleans, Louisiana.

McDermott's 1991 payroll in Panama was $45,536.00, approximately 1/2 of Respondent's annual salary in the same year.

McDermott did not file a corporate tax return in Panama for the years 1990 and 1991 because it generated no income in that country.

McDermott paid corporate franchise taxes in Louisiana in 1990 and 1991 and filed foreign corporation tax returns with the U.S. Internal Revenue Service in those years.

Respondent, George E. Beasley, is a 47 year-old Mississippian with a sixth grade education, and a 24-year record of employment as a seaman with McDermott International, Inc. (McDermott, hereafter), or one of its predecessor companies. He filed a Jones Act/General Maritime suit, together with his spouse, against McDermott in the Civil District Court, Parish of Orleans, on the 27th day of January, 1992, under the Savings to Suitors Clause, 28 U.S.C. § 1333(1).

Respondent, a seaman, was injured on the 12th day of June, 1992, on a vessel, the D/B 52, registered to a Malaysian corporation in which McDermott had a partial "disclosed" interest, but managed and controlled by McDermott. The vessel, at the time of the accident, was in international waters off the coast of Malaysia, the exact location not being disclosed in the record. Respondent was permanently attached to the D/B 26, not owned by the Malaysian corporation, and was aboard the D/B 52 to temporarily replace an absent foreman, also a McDermott employee.

Both the D/B 52 and D/B 26, and all personnel therein, were under the direct supervision of the barge superintendents of the respective vessels, employees of McDermott, and the vessels were engaged in the performance of contracts undertaken by McDermott.

Respondent executed a one-year employment contract with McDermott in New Orleans on February 7,

1990, as he had over the many years of his employment. The aforesaid employment contract did not include an assignment, or a clause making foreign law applicable to the contract. On November 20, 1990, plaintiff was required to sign a second contract while at sea in foreign waters aboard a McDermott vessel. The aforesaid contract contained an assignment and a clause making foreign law applicable. The only difference between the first contract and the second contract was the foreign law clause and the assignment. No reason was given to Respondent why he was being required to execute a second contract during the applicable period of the first contract, and no additional consideration was paid to Respondent.

Respondent's true relationship with McDermott is confirmed by the following:

1. McDermott paid his wages in the United States by check drawn on a United States bank in United States dollars.

2. McDermott provided pension, life insurance, accident insurance, and medical benefits to Respondent.

3. McDermott provided a statement of foreign earnings each year to Respondent to attach to his United States income tax return.

4. McDermott provided workmen's compensation, employers liability and maritime employers liability, (Jones Act, death on the high seas, and general maritime), coverage to Respondent through CIGNA, an American insurer.

5. McDermott paid for all repairs of the vessel on which Respondent was injured.

6. McDermott prepared the Employers' first report of injury on Respondent's accident.

7. McDermott paid post-accident benefits to Respondent by checks delivered to Respondent in the United States, drawn on United States banks in United States dollars.

8. McDermott purchased Respondent's repatriation airline transportation following the accident.

9. McDermott made post-accident settlements with employees injured on vessels registered to foreign corporations in which it had a "disclosed" partial interest.

10. McDermott paid post-accident medical expenses incurred by Respondent.

11. Both the D/B 52 and the D/B 26 were engaged in the performance of contracts undertaken by McDermott.

12. McDermott owned 30% of the common stock of Malmac, the Malaysian corporation.

13. McDermott had a contract with Malmac whereby it had greater control over the affairs of Malmac than the 30% stock ownership.

14. Respondent was permanently attached to the D/B 26, owned, and/or controlled, by McDermott, and was aboard the D/B 52 voluntarily to replace an absent McDermott supervisory employee.

REASONS FOR DENYING THE WRIT

1. THE LOUISIANA SUPREME COURT PROPERLY APPLIED THE HOLDINGS OF THE CONTROLLING DECISIONS OF THIS COURT TO THE FACTS OF THIS CASE.

This Court in three decisions has established criteria through which the Courts throughout the United States can determine from facts established in individual cases whether, or not, to apply American law to a seaman injured aboard a vessel with foreign identity, or connexity, at the time of the incident giving rise to the proceeding. See **Lauritzen v. Larsen**, 345 U.S. 571 (1953); **Romero v. International Terminal Operating Co.**, 358 U.S. 354 (1959); and **Hellenic Lines Ltd. v. Rhoditis**, 398 U.S. 306 (1970).

The Louisiana Supreme Court contrary to applicant's unwarranted accusation of social jingoism, made specific reference to the holdings of this Court in the aforecited decisions, and predicated their holding on an analysis of the facts under the established criteria of those cases.

Obviously, applicant disagrees with the factual conclusions of the Louisiana Supreme Court. Presumptively, applicant would have this Court grant writs in every case of this type in order to determine whether, or not, a lower Court has correctly applied the prevailing facts to the established criteria in spite of the fact that this Court in **Lauritzen**, and **Rhoditis**, supra, has delegated to the lower Courts the responsibility of "weighing" and "evaluating" the facts in arriving at a rational and satisfactory conclusion with the underlying objective of effectuating the liberal purposes of the Jones Act.

The Louisiana Supreme Court in **Powell v. McDermott International, Inc.**, 588 So.2d 84 (La. 1991), again in refutation of applicant's derogatory assessment, gave deference to the **Lauritzen-Rhoditis** test in a case involving facts indistinguishable from the facts presented in this case.

McDermott International, Inc., the defendant in **Powell**, and applicant herein, did not seek a writ of certiorari from this Court. Obviously, McDermott during the pendency of the litigation in **Powell** realized that its ducks were not in order since McDermott International, Inc., a Panamanian corporation, was a wholly owned subsidiary of McDermott, Inc., a Delaware corporation. Therefore, during the pendency of the **Powell** case a paper change of corporate status was effectuated, whereby McDermott, Inc., the Delaware corporation became the wholly owned subsidiary of McDermott International, Inc., the Panamanian company, in order to create a foreign flavor.

McDermott thereafter created, or acquired ownership in, a Malaysian corporation, and titled the D/B 52 in that corporation in order to create a fictitous foreign flag.

The significance of the aforedescribed corporate facade is manifest by the admonition in **Lauritzen** and **Powell**, supra, to ignore the insertion of a nominal foreign corporation between the flag and the true beneficial ownership of the vessel. The true beneficial owner of the vessel in this case, regardless of the flag, is McDermott, the veiled foreign corporation, and its efforts to avoid that implication are made apparent by its actions during the pendency of **Powell**, and post **Powell**.

2. THE WRIT SHOULD NOT BE GRANTED BECAUSE THE EMPLOYMENT CONTRACT OF NOVEMBER 20, 1990, IS A PARADIGMATIC CONTRACT OF ADHESION.

Respondent executed a valid, and binding, one year employment contract with applicant on February 7, 1990, which did not invoke Malaysian law, and was not assigned to a Malaysian company.

Applicant presented a new one year employment contract to Respondent for execution by him on applicant's vessel in foreign waters, without explanation, or consideration. The new contract, executed within the existing term of the original contract, contained a Malaysian law clause, and an assignment to a Malaysian company, Malmac, a subsidiary of McDermott.

The contract between Respondent and applicant is a paradigmatic contract of adhesion. Respondent did not have the power to negotiate any of its terms. If any of the terms were unacceptable, his option would have been to refuse to take the job, leave the ship at sea, and pay his own way back to the United States. Because of the disparity in bargaining power between a seaman, and his employer, American Courts have looked unfavorably upon "boilerplate" provisions in seamen's contracts of employment. **Dalla v. Atlas Maritime Co.**, 562 F.Supp. 752, 755-56 (C.D. Calif., 1983) aff'd, 771 F.2d 1277 (9th Cir. 1985).

The United States Supreme Court, and the federal courts of appeal, traditionally have ignored forum selection clauses in seamen's employment contracts. It would

be unprecedented in the jurisprudence to validate, let alone, recognize a forum selection clause which mandates the law governing the injury, or death, of a seaman, particularly under the prevailing circumstances.

In the **Hellenic** case, supra, the Court did not attach any legal significance to the fact that the employment contract of the respondent, a foreign seaman, provided that Greek law and a Greek collective-bargaining agreement applied in any disputes between the employer and the seaman, and that all claims arising out of the contract would be adjudicated by a Greek Court. **Id.** at 308.

In **Fisher v. Agios Nicholas V**, 628 F.2d 308 (5th Cir. 1980), the Fifth Circuit Court of Appeals ignored a provision in the employment contract of a foreign seaman which provided that Greek law and Greek Courts would exclusively determine his rights against his employer, including claims arising from illness or accident, due to the disparity in bargaining power between the seaman and his employer.

American Courts have generally accorded little determinative weight to such contractual choice of law-provisions. See G. Gilmore and C. Black, "The Law of Admiralty" 476 (2d Ed. 1975).

If Respondent had been presented with the November 20, 1990, contract in New Orleans, Louisiana, as had been the case throughout his long term employment with McDermott, he would have been in a position to reject same and seek employment with a more considerate employer. Obviously, applicant did not want to afford

Respondent the opportunity to give leveraged consideration to the disadvantageous inclusions in the contract forced upon him at sea on applicant's vessel.

This Court should certainly not give credence to such conduct toward its wards by granting a writ in this case.

3. THE WRIT SHOULD NOT BE GRANTED BECAUSE APPLICANT HAS FAILED TO CONCLUSIVELY ESTABLISH THE ADEQUACY OF THE FOREIGN LAW SOUGHT TO BE IMPOSED.

Applicant would have this Court relegate this American seaman to the "black hole" of Malaysian law, which, in all probability, will subject Respondent to a similar bizarre fate as that encountered by Mr. Fay in the recent notorious caning case in Singapore.

It is interesting that applicant in its contract with its captive corporation, Malmac, inserted a clause whereby any unlikely disputes between the corporations will be decided under English law. Obviously, applicant, in spite of its dominant position over its subordinate Malaysian corporation, was unwilling to subject itself to the vagaries of Malaysian law in the unlikely event that litigation would ensue between the two corporations.

The United States Fifth Circuit Court of Appeals in **Symonett Shipyards, Ltd. v. Clark**, 365 F.2d 464 (5th Cir. 1966), affirming the District Court's refusal to apply Bahamian law to an American seaman injured aboard a Bahamian-flag vessel, stated, at page 468:

> " . . . It might be well to point out that in this case the law of the United States is established

> and easily determinable, whereas the evidence relating to the law of the Bahamas is vague and indefinite. We agree with the finding of the trial court that the testimony of the expert witness relating to Bahamian law did not establish 'whether or not proof of negligence is necessary to maintain an action for unseaworthiness, or whether or not the common law defenses are an absolute bar as opposed to mitigation of a damage award.' We find no error in the trial court's ruling that the law of the United States should govern."

In the case of a seaman, as evidenced by the foregoing quote, the law must not only be determinable, but it must also provide traditional maritime remedies to the seaman. The foreign law cannot make negligence a prerequisite to unseaworthiness, or bar a seaman's claim for contributory negligence.

Applicant, in the District Court below, failed to establish that the Bahamian law, if applicable is determinable or sufficient.

The Court in **Symonett**, supra, cited the United States Supreme Court decision in **Black Diamond Steamship Corp. v. Robert Stewart & Sons, Ltd.**, 336 U.S. 386, at 396-397 (1949). In the **Black Diamond** case, Judge Frankfurter, as the organ of the Court, stated:

> "It is true that this Court has on several occasions held international rules which had passed into the 'General Maritime Law' to be subject to judicial notice . . . but where less widely recognized rules of foreign maritime law have been involved, the Court has adhered to the general

principle that foreign law is to be proved as a fact."

Applicant has not, and cannot, challenge the jurisdiction of Louisiana state court to try this matter under the Savings to Suitors' Clause, 28 U.S.C. § 1333(1) law. They only argue that the Louisiana state court should apply Malaysian law to an American seaman instead of traditional American maritime law.

Absent the required proof, this Court should not determine Malaysian law to be adequate under heretofore cited authorities and, accordingly, the granting of a writ would be vain, and useless.

OPPOSITION TO APPLICANT'S REASONS FOR GRANTING THE WRIT

1. The Louisiana Supreme Court is not the Supreme Court of Admiralty law.

Respondent has previously addressed the deference, and consideration given by the Louisiana Supreme Court to this Court's decisions in **Lauritzen** and **Rhoditis** in the Louisiana Supreme Court decisions in **Powell**, and the instant matter, in refutation of applicant's unwarranted assertion that the state Court has usurped this Court's authority by interposing itself as the "Supreme Court of admiralty law".

The Louisiana Supreme Court in **Powell**, at page 86, immediately preceding its analysis of **Lauritzen** and **Rhoditis**, stated:

> "At the outset, we note that this Court is governed by federal substantive admiralty or maritime law. **McCraine v. Hondo Boats, Inc.**, 399 So.2d 163 (La. 1981) . . . "

The other decisions of the Louisiana Supreme Court referenced in this section of applicant's brief are not germane to the issues before the Court in this case. Therefore, they will not be addressed by Respondent herein. Suffice it to say, that an analysis of the numerous decisions of the Louisiana Supreme Court in the admiralty/maritime field do not support applicant's assertion.

2. Conflict with the decisions of this Court and the Circuit Courts

A cursory review of the decisions cited by applicant will disclose that there is not any conflict between the federal circuits, and no conflict between the decision herein by the Louisiana Supreme Court, and controlling federal jurisprudence.

There are many decisions in the federal, and state, systems wherein jurists have met the "weighing" and "evaluating" requirements of **Lauritzen** and **Rhoditis** and have arrived at rational, and satisfactory, conclusions that American, or foreign, law is applicable.

Applicant has cited only those cases in which United States Circuit Courts have determined that foreign law is applicable.

It would indeed be questionable if the federal, and state, courts uniformly concluded that American, or foreign, law was applicable in every case, after the "weighing" and

"evaluating" required of the Courts under **Lauritzen** and **Rhoditis**.

It is interesting that this Court, presumptively evidencing an unwillingness to review factual determinations of lower Courts, has denied certiorari in almost every case.

Applicant cites as authority the United States Fifth Circuit Court of Appeal decision in **Fogelman v. Armco**, 920 F.2d 278 (5th Cir. 1991), as a decision which conflicts with the decision of the Louisiana Supreme Court in the instant matter. The **Fogelman** case is readily distinguishable from the factual circumstance of this case. The Court, at page 282, makes the following pertinent observation:

> "The place of the wrongful act is accorded little weight in traditional maritime cases in which the locality of the ship changes constantly. When the injury stems from work on a permanently situated off-shore oil rig, or work platform, however, the place of the wrong assumes greater importance. Fogelman was injured while transferring from a permanent oil platform to a work boat off the coast of Saudi Arabia."

Respondent herein is a traditional maritime seaman, and obviously, a different evaluation of the involved factors is required in his case as opposed to Mr. Fogelman, an off-shore platform worker in foreign waters.

Schexnayder v. McDermott International, Inc., 817 F.2d 1159 (5th Cir. 1987), likewise cited as authority by applicant, is also distinguishable from the factual circumstance before the Court herein. The corporations involved in the **Schexnayder** case *did not* conduct any business in the United States. Additionally, Australian law was found

to be adequate and Australian Courts accessible. Since the owner of the vessel was an Australian corporation, the Court concluded that Australian law should be applied to Mr. Schexnayder's claim arising out of an accident in foreign waters. In this case, applicant maintains its corporate office in New Orleans, Louisiana, and does substantial business within the State of Louisiana, and throughout the United States. Furthermore, the D/B 26 to which Respondent was permanently assigned is either owned, or controlled, by applicant, since applicant had the authority to transfer Respondent, at its will, from one vessel to another. Subsequent proceedings in the **Schexnayder** case, reported at 688 F. Supp. 234 (W.D. La. 1988), however, do shed further light on applicant's efforts to manipulate the judicial system to its advantage. The Court, therein, held applicant's deliberate effort to avoid the Louisiana Direct Action Statute by not accepting delivery of its policy of insurance in Louisiana to be an absolute simulation.

The United States Fifth Circuit Court of Appeal has also rendered two opinions, not cited by applicant, in which it has applied American law in instances wherein American seamen have been injured aboard foreign flag vessels in foreign waters, after analyzing the **Lauritzen** and **Rhoditis** factors. See **Symonett Shipyards, Ltd. v. Clark**, 365 F.2d 464 (5th Cir. 1966); and **Coats v. Penrod Drilling Corp.**, 5 F.3d 87 (5th Cir. 1993).

The Court in **Coats** specifically distinguished **Fogelman**, cited by applicant, and ignored **Schexnayder**.

The Court in **Symonett**, like the Louisiana Supreme Court herein, concluded at page 467:

> " . . . In the context of this case, we believe the most significant choice of law factor to be the nationality of the injured and deceased seamen. . . . "

The **Symonett** court, and the Louisiana Supreme Court, were not saying that the only consideration is the nationality of the seaman. What they were saying is that that factor, after the mandated "weighing" and "evaluating" of all other factors, weighted the applicability of American law in favor of the injured seamen in those cases.

Applicant cites two other cases, one from the West Coast and one from New York, which allegedly support its contention of a Circuit conflict. However, those cases, like **Schexnayder** and **Fogelman**, are distinguishable from the factual circumstance of this case. **Tjonaman v. A/S Glittre**, 340 F.2d 290 (2nd Cir. 1965), involved a suit by a Dutch national seaman, who was a resident alien in the United States for only 29 days. Tjonaman was a member of the Norwegian Seamen's Union and had signed his contract in Norway. His suit was brought against a Norwegian company which owned a Norwegian flag vessel on which Tjonaman was employed as a seaman. Obviously, the **Lauritzen** and **Rhoditis** factors weighed in favor of foreign law.

The second case, **Bilyk v. Vessel Nair**, 754 F.2d 1541 (9th Cir. 1985), involved an American seaman injured aboard a Mexican flag vessel, owned by a Mexican company based in Mexico, whose owners and shareholders were Mexican citizens and residents. Obviously, that is not the factual circumstance presented in this case.

The applicant has been dealt with fairly, and impartially, by the Supreme Court of Louisiana in keeping with the jurisprudence of this Court and the jurisprudence of the Circuit Court, and the granting of a writ in this case can only serve to sound a signal to other maritime employers that they may have an opportunity to escape their responsibility to American seamen under American law by corporate manipulation.

3. The application of American law by the Louisiana Supreme Court is an improper exercise in social jingoism.

Apparently, applicant believes that any Court that extends American law to American citizens in overseas operations is involved in social jingoism. If that be the case, this Court would not have been required to lay down the factors to be considered as it did in **Lauritzen** and **Rhoditis**. The Court could have simply stated that the law of the flag is the single, controlling, factor in any case. Obviously, the Court, with good reason, did not wish to relinquish our maritime national interest to one single factor, because of the probability of "fictitious flags" and fictitious corporations designed to create fictitious conflicts. This nation has a legitimate interest that its nationals and permanent inhabitants be not maimed or disabled from self support, as pointed out by Justice Jackson in **Lauritzen**.

American citizens that are injured on foreign vessels will, if not properly compensated, become the social liability of this country through Social Security, or other benefits. The social responsibility should fall on the

shoulders of the beneficiaries of the labors of the American seamen, who fall within the criteria of **Lauritzen** and **Rhoditis**, as does the applicant herein.

CONCLUSION

The application for a writ of certiorari by McDermott International, Inc., defendant/applicant herein, should be denied at their costs.

WHEREFORE, Respondents, Rosemary Beasley, wife of/and George Beasley, respectfully pray that this Court deny the application for writ of certiorari filed by McDermott International, Inc. herein.

Respectfully submitted,

WIEDEMANN & WIEDEMANN

LAWRENCE D. WIEDEMANN #13457
KARL WIEDEMANN #18502
821 Baronne Street
New Orleans, LA 70113
Telephone: 504/581-6180

APPENDICES

Index

Employment contract between Respondent and Applicant dated February 1, 1990 ..... A-1

Employment contract between Respondent and Applicant dated November 20, 1990 ..... B-1

EMPLOYMENT AGREEMENT
HOURLY AND MANUAL MONTHLY EMPLOYEES

BEASLEY, GEORGE E	428-94-9511	40200
(Name of Employee)	(Social Security No.)	(Employee No.)

MCDERMOTT INTERNATIONAL INC (hereinafter referred to as "Employer") hereby offers you employment as a SENIOR LEADERMAN (9270) in the SOUTH EAST ASIA subject to the terms and conditions herein set forth. The term of your employment will be for an indefinite period not to exceed 12 MONTHS OR JOB COMPLETION, beginning on the date of your authorized departure from UNITED STATES through your authorized departure from your work location, at a base rate of pay of:

EXPATRIATION	US $ 10.95	per	hour
PREMIUM	US $410.00	per	month
	$_____	per	_____

Your employment will be subject to the conditions set forth in the attachments to this Employment Agreement, each of which is acknowledged by Employee.

Employer may terminate your employment without cause at any time without prior notice except where the reason for your termination is completion or cessation of the job, work or project to which you are assigned. In which case Employer will give you thirty (30) days' notice prior to your termination where this is practicable.

If your services are terminated by reason of discharge for cause, or if you should terminate your employment by resignation or abandonment of your work prior to the maximum duration period of this Agreement, no vacation

pay (if applicable) and/or Contract Completion Bonus is earned and none will be paid. Further, you will bear the cost of your return transportation to your home location.

All compensation and benefits provided by Employer shall cease at the time of your termination, except as may be specifically provided for or agreed upon. Employer assumes no duties or obligations except as set forth herein and as may be required by law.

Changes in this Agreement will be valid only after they have been agreed upon mutually and confirmed in writing. The understandings set forth in this Agreement supersede all contrary oral understandings or impressions you may have obtained in conversations with Employer representative prior to the signing hereof.

In the event of accident or emergency, Employer is authorized to notify:

ROSEMARY BEASLEY	WIFE
Name	Relationship, if any
RT 4 BOX 57 BB	601-736-0601
COLUMBIA, MS 39429	Telephone
Address	

I HEREBY ACCEPT EMPLOYMENT ON THE TERMS AND CONDITIONS SET FORTH ABOVE AND ON THE ATTACHED PAGES.

/s/ George E. Beasley
(Signature of Employee) Date

/s/ illegible
(Employer's Representative)

Date of Departure FEBRUARY 7, 1990

Date of Return FEB 22 70

Attachments:
R-03/88/0908
EFFECTIVE DATE:
FEBRUARY 7, 1990

PERMANENT ADDRESS

The address of the person to be notified in the event of an accident or emergency as shown on the first page of this Employment Agreement shall be considered as your permanent address or the address of the person in whose care Employer may communicate with you. In the event of your death while outside the continental limits of the United States during the period of service under this Agreement, Employer shall attempt to communicate with the person at the given address, and in the event no directions are received from such person within a reasonable time, or in the event you have left no written instructions with Employer concerning the disposition of your remains or personal effects, you authorize Employer to make disposition of your remains according to the law where you are employed at the time of your death and to return your personal effects to the Executor or Administrator of your estate, or to the person named at the permanent address as appears to best expeditiously handle such matters.

DISCLOSURE OF INFORMATION

Employee hereby agrees that he will not, except with the prior written consent of Employer, make directly or indirectly any statement publicly whether to the press or in books, magazines, and periodicals or by advertisement or by radio, television or film or by any other medium with respect to matters relative to the operations of the Company with whom Employer is working, or with respect to matters of a political nature which might impair the

relations of Employer, Employer's customers or subcontractors, or any other companies with whom Employer is working or with any governments in the local area.

DEDUCTIONS-INCOME, F.I.C.A. AND OTHER TAXES

Employee hereby acknowledges his responsibility for payment of income taxes of his home country or countries to which he is assigned to perform services.

Under no circumstances will Employer be liable for or pay any taxes for which the employee may be liable during his foreign assignment.

PREEMPLOYMENT PROCESSING

Employee agrees to have completed the following items prior to your departure from the UNITED STATES:

1) procurement of a valid passport from the UNITED STATES, visa, or work permit; and

2) a physical examination to certify your fitness to perform the duties to which you will be assigned. (The complete final results of your preemployment physical examination will not be available for approximately four (4) days after your initial visit to our Company doctors. Your employment with Employer is contingent upon your successfully passing this physical examination.)

Employee will be paid one day's pay of eight (8) hours for each actual day of processing as determined by Employer. This processing pay will be at your base rate.

POST EMPLOYMENT PHYSICAL EXAMINATION

Employee agrees to submit to a physical examination prior to leaving your place of overseas employment or upon termination of your employment, by a physician selected by Employer.

HEALTH CARE COVERAGE

All Health Care Benefits provided by Employer shall cease on the last day of the month of termination. Following a contract completion (not including broken contracts), participating employees who will return to work immediately following the expiration of their accrued vacation time will be provided with an automatic extension of Group Health Coverage for an additional month. The only acceptable proof that an employee will return to work for Employer is a new fully executed employment agreement and/or written notification to the Corporate Employee Benefits Department by the respective Personnel Department. Employee contribution will be required for the additional month of coverage. For those employees not qualifying for the automatic extension of Group Health Coverage, Employer has an arrangement with the Travelers Insurance Company for a Group Health Conversion Plan. The respective Personnel Department can assist you should you desire this type of coverage.

USE OR POSSESSION OF DRUGS, NARCOTICS OR ALCOHOL

It is Employer's policy not to condone the use, possession or selling of alcohol, non-prescription drugs or narcotics considered dangerous or illegal by the U.S. Department of Justice or of authorities at the international location, or the arrival on Company property under the influence of such substances. If any employee is involved in any such circumstance, immediate termination of employment will result.

In addition, any employee taking prescribed medication will be required to present a note from a physician stating the name of the medication, the length of time the employee is to continue taking the medication, and a statement that the employee should be able to work while under such medication without posing danger to yourself or to other employees. In keeping with this policy, periodic searches of Company premises and equipment as well as personal belongings will be made.

Many international countries in which the Company operates have extremely severe drug laws which include the death penalty for some of the above circumstances. It is understood that if you and/or your family violate any of these countries' drug laws, the Company and your embassy, high commission or consul are virtually powerless to come to your aid.

TRANSPORTATION

Employer will furnish air transportation for you from your home location to your work site subject to the conditions set forth herein, return transportation will be furnished if you proceed directly to UNITED STATES upon completion of this Agreement.

Employer may, at its option, deduct the cost of excess luggage from your pay. If you make a request at least seven (7) days prior to the date of departure, Employer may, at its option, grant you permission to ship air freight, at its expense, up to thirty (30) additional pounds of luggage.

Employer will have the option of withholding US$155.00 from each of your first SIX full pay periods as a cash deposit for the payment of your return transportation in the event you should become obligated for its payment. If the cost of the return transportation is greater than the amount withheld, the excess will be deducted from your final wage payment and/or other monies due you. The amount withheld will be included in your final check, if you are not responsible for your return transportation.

HOURS OF WORK

Employee agrees to work such hours as may be assigned by Employer. No payment will be made for any day of absence from work unless excused by Employer. If at any time during the course of your employment you are absent from work on any given day through your willful neglect, Employer, at its option, may elect not to pay you the normal day's pay for this unauthorized absence. This

type of unauthorized absence may be considered as cause for termination of your Agreement by Employer.

EXPATRIATION PREMIUM

Employee will receive an Expatriation Premium as shown on page 1 of this Agreement when you are available for work.

CONTRACT COMPLETION BONUS/SEVERANCE PAY/ PERIOD OF SERVICE AWARD

If your base pay as stated on page 1 of this Agreement is an hourly rate, Employee will receive a Contract Completion Bonus of twenty-five percent (25%) of the total straight time portion of your pay (which is total hours worked inclusive of time off and time off not taken hours).

If your base pay as stated on page 1 of this Agreement is a monthly rate, Employee will receive a Contract Completion Bonus of twenty-five percent (25%) of your base rate of pay inclusive of Expatriation Premium.

It is agreed that this Contract Completion Bonus includes, as a part of such bonus, any payments required or related to severance, service or termination under the labor laws of the jurisdiction(s) in which you are employed.

ACKNOWLEDGEMENT:
/s/ George E. Beasley
Employee

2-9-90
Date

R-9/86/0908

MIDDLE EAST AND SOUTHEAST ASIA
HOURLY AND MANUAL MONTHLY

Time off is earned and accrued on the basis of one (1) day of time off for three (3) days of work. Time off is only earned or accrued while Employee is required to work.

Time off will be taken only after being approved in advance by the job site Superintendent or responsible Manager and will be scheduled at a time consistent with the need for Employee's service on the job assignment.

Time off will commence on the day following the arrival of Employee at Employer's onshore base in the international location. Employee must report to the international location's onshore base on the last day of approved time off or approved unpaid leave. An extension to the original period of approved time off requires the approval of the international location's management and will be considered as unpaid leave. If Employee purchases an airline ticket, it will be the Employee's responsibility to schedule his return flights prior to his departure on time off and to pay any additional cost should the ticket expire.

Visa processing is the responsibility of Employee and should be accomplished during the Employee's time off period.

Time off will be paid as eight (8) hours at Employee's base rate of pay plus Expatriation Premium for each day of paid time off taken. Time off not taken will be paid on termination of the Employment Agreement as eight (8) hours at Employee's base rate of pay for each day of time off earned and accrued but not taken as at the date of contract completion. The Contract Completion Bonus, as stipulated in the Employment Agreement, will be applied

to time off hours paid whether the time off was taken or not taken.

For each day of earned time off taken, Employer will pay a per diem allowance of $52.50. Any time off not taken pay or unpaid time off days will not attract a per diem.

Employer is not liable for any injury or illness which the Employee suffers or contracts while on time off.

ACKNOWLEDGMENTS:

/s/ George E. Beasley

2-9-90
Date

R-12/89/1010

EMPLOYMENT AGREEMENT
HOURLY AND MANUAL MONTHLY EMPLOYEES

BEASLEY, GEORGE E	428-94-9511	40200
(Name of Employee)	(E.I.S. No.)	(Employee No.)

McDermott International, Inc., a corporation organized and existing under the laws of the Republic of Panama (hereinafter referred to as "Employer"), hereby offers you employment as a SENIOR LEADERMAN (9270) in the Southeast Asia Area and/or its adjoining waters, subject to the terms and conditions set forth in this Employment Agreement (the "Agreement"). This Agreement will become effective between Employee and Employer upon your arrival at the designated work location. This term of your employment will be for a period not to exceed 12 MONTHS OR J.C. commencing on your arrival at the designated work location and will continue through your authorized departure from your work location.

Base Salary	US $ 10.95	per	hour
Expatriation Premium - 15%	US $405.00	per	month
	$_____	per	_____

Your employment will be subject to the conditions set forth in the attachments to this Agreement, each of which will be acknowledged by Employee.

Employer may terminate your employment without cause at any time without prior notice except where the reason for your termination is completion or cessation of the job, work or project to which you are assigned, in which case

Employer will give you thirty (30) days' notice prior to your termination where this is practicable.

If your services are terminated by reason of discharge for cause, or if you should terminate your employment by resignation or abandonment of your work prior to the maximum duration of this Agreement, no Contract Completion Bonus is earned and none will be paid. Further, you will bear the cost of your return transportation to your home location.

All compensation and benefits provided by Employer shall cease at the time of your termination, except as may be specifically provided for or agreed upon. Employer assumes no duties or obligations except as set forth herein and as may be required by law.

Changes in this Agreement will be valid only after they have been agreed upon mutually and confirmed in writing. The understandings set forth in this Agreement supersede all contrary oral understandings or impressions you may have obtained in conversations with Employer representatives prior to the signing hereof.

If the event of accident or emergency, Employer is authorized to notify:

Name ROSEMARY BEASLEY

Relationship WIFE

Address RT 4 BOX 57BB COLUMBIA, MS 39429

Telephone (601) 736-0601

I HEREBY ACCEPT EMPLOYMENT ON THE TERMS AND CONDITIONS SET FORTH ABOVE AND ON THE ATTACHED PAGES.

/s/ George E. Beasley	/s/ Illegible
(Signature of Employee)	Employer's Representative
Date of Execution NOV 20, 1990	Country/Area of Execution SINGAPORE

Attachments:
R-05/90/0908

INJURIES, ILLNESSES AND COMPENSATION

In the event of any occupational illness or injury, Employer and Employee agree that Employee's benefits for such occupational illness or injury shall be governed by and in accordance with the laws of the country having jurisdiction over the area where the occupational injury occurred or illness arose. Notwithstanding the foregoing, in the event that it is determined that the Employee's benefits against Employer under the laws of the country having jurisdiction are not at least equal to the benefits afforded for a like occupational illness or injury under the laws of the Republic of Panama, Employer and Employee agree that the Employee's benefits will be adjusted so that he or she will receive benefits equal to those that would have been due under the laws of the Republic of Panama.

EMERGENCIES OR ACCIDENTS

The address of the person to be notified in the event of an accident or emergency as shown on the first page of this Agreement shall be considered as the address of the person in whose care Employer may communicate with you. In the event of your death during the period of service under this Agreement, Employer shall attempt to communicate with the person at the given address, and in the event no directions are received from such person within a reasonable time, or in the event you have left no written instructions with Employer concerning the disposition of your remains or personal effects, you authorize Employer to make disposition of your remains according to the law where you are employed at the time of your

death and to return your personal effects to the Executor or Administrator of your estate or to the person named at the address as appears to best expeditiously handle such matters.

DISCLOSURE OF INFORMATION

Employee hereby agrees, except with prior written consent of Employer, not to make directly or indirectly any statement publicly whether to the press or in books, magazines and periodicals or by advertisement or by radio, television or film or by any other medium with respect to matters of a political or work-related nature which might impair the relations of Employer, Employer's customers or subcontractors, or any other companies with whom Employer is working or with any governments in the local area.

EMPLOYEE'S RESPONSIBILITY FOR TAXES

Employee hereby acknowledges responsibility for payment of income taxes of your home country or countries to which you are assigned to perform services.

Under no circumstances will Employer be liable for or pay any taxes for which Employee may be liable during this assignment.

PREEMPLOYMENT PROCESSING

Employee agrees to have completed the following items prior to your departure from your country of origin:

1) procurement of a valid passport from the country of origin, visa, or work permit and
2) a physical examination to certify your fitness to perform the duties to which you will be assigned.

POST EMPLOYMENT PHYSICAL EXAMINATION

Employee agrees to submit to a physical examination prior to leaving your place of overseas employment or upon termination of your employment by a physician selected by Employer.

HEALTH CARE AND OTHER BENEFIT COVERAGE

Eligibility period for all health care and other fringe benefits provided by Employer shall commence on the date Employee departs from his country of origin. Participation will begin in accordance with each specific plan.

All Health Care Benefits provided by Employer shall cease on the last day of the month of termination. If returning to work within one month following Contract Completion, a participating Employee will be provided with an automatic extension of Group Health Coverage. The only acceptable proof that an Employee will return to work for Employer is a new fully executed employment agreement and/or written notification to the Corporate Employee Benefits Department by the respective Personnel Department. Employee contribution will be required for the additional month of coverage.

USE OR POSSESSION OF DRUGS, NARCOTICS OR ALCOHOL

This policy is for the safety of Employee and your family, possible protection of Employee from international legal action, and the protection of Employer.

It is the Employer's policy not to condone the use, possession or selling of alcohol, non-prescription drugs or narcotics considered dangerous or illegal by the by the Employer or by the governmental authorities asserting jurisdiction over the area where the Employee is employed. If any Employee is involved in any such circumstance or arrives on Employer's property under the influence of such substances, immediate termination of employment will result.

In addition, any Employee taking prescribed medication will be required to present written proof from a physician stating the name of the medication, the length of time the Employee is to continue taking the medication, and a statement that the Employee should be able to work while under such medication without posing danger to yourself or to other employees. In keeping with this policy, periodic searches of Employer premises and equipment as well as personal belongings will be made.

R-04/90/0908

Many international countries in which the Employer operates have extremely severe drug laws which include the death penalty for some of the above circumstances. It is understood that if you and/or your family violate any of these countries' drug laws, the Employer and your

embassy, high commission or consul are virtually powerless to come to your aid.

TRANSPORTATION

Employer will furnish air transportation for you from your home location to your work site subject to the conditions set forth herein. Return transportation will be furnished if you proceed directly to your home location upon completion of this Agreement.

Employer may, at its option, deduct the cost of excess luggage from your pay. If you make a request at least seven (7) days prior to the date of departure, Employer may, at its option, grant you permission to ship air freight, at its expense, up to thirty (30) additional pounds of luggage.

Employer will have the option of withholding US$155.00 from each of your first six full pay periods as a cash deposit for the payment of your return transportation in the event you should become obligated for its payment. If the cost of the return transportation is greater than the amount withheld, the excess will be deducted from your final wage payment and/or other monies due you. The amount withheld will be included in your final check, if you are not responsible for your return transportation.

HOURS OF WORK

Employee agrees to work such hours as may be assigned by Employer. No payment will be made for any day of absence from work unless excused by Employer. If at any time during the course of your employment you are

absent from work on any given day through your willful neglect, Employer, at its option, may elect not to pay you the normal day's pay for this unauthorized absence. This type of unauthorized absence may be considered as cause for termination of your Agreement by Employer.

EXPATRIATION PREMIUM

Employee will receive an Expatriation Premium as shown on page 1 of this Agreement when you are available for work.

R-04/90/0908

CONTRACT COMPLETION BONUS/SEVERANCE PAY/ PERIOD OF SERVICE AWARD

If your base pay as stated on page 1 of this Agreement is an hourly rate, Employee will receive a Contract Completion Bonus of twenty-five percent (25%) of the total straight time portion of your pay (which is total hours worked inclusive of time-off and time-off-not-taken hours).

If your base pay as stated on page 1 of this Agreement is a monthly rate, Employee will receive a Contract Completion Bonus of twenty-five percent (25%) of your base rate of pay inclusive of Expatriation Premium.

It is agreed that this Contract Completion Bonus includes, as a part of such bonus, any payments required or related

to severance, service or termination under the labor laws of the jurisdiction(s) in which you are employed.

ACKNOWLEDGEMENT:

/s/ George E. Beasley
Employee

NOV 20, 1990
Date

R-04/90/0908

SOUTHEAST ASIA
HOURLY AND MANUAL MONTHLY

Time off is earned and accrued on the basis of one (1) day of time off for three (3) days of work. Time off is only earned or accrued while Employee is required to work.

Time off will be taken only after being approved in advance by the job site Superintendent or responsible Manager and will be scheduled at a time consistent with the need for Employee's service on the job assignment.

Time off will commence on the day following the arrival of Employee at Employer's onshore base in the international location. Employee must report to the international location's onshore base on the last day of approved time off or approved unpaid leave. An extension to the original period of approved time off requires the approval of the international location's management and will be considered as unpaid leave. If Employee purchases an airline ticket, it will be the Employee's responsibility to schedule

his return flights prior to his departure on time off and to pay any additional cost should the ticket expire.

Visa processing is the responsibility of Employee and should be accomplished during the Employee's time off period.

Time off will be paid as eight (8) hours at Employee's base rate of pay plus Expatriation Premium for each day of paid time off taken. Time off not taken will be paid on termination of the Employment Agreement as eight (8) hours at Employee's base rate of pay for each day of time off earned and accrued but not taken as at the date of contract completion. The Contract Completion Bonus, as stipulated in the Employment Agreement, will be applied to time off hours paid whether the time off was taken or not taken.

For each day of earned time off taken, Employer will pay a per diem allowance of $52.50. Any time off not taken pay or unpaid time off days will not attract a per diem.

Employer is not liable for any injury or illness which the Employee suffers or contracts while on time off.

ACKNOWLEDGEMENT:

/s/ George E. Beasley
Employee

NOV 20, 1990
Date

R-04/90/0910

HEALTH CARE COVERAGE ADDENDUM
U.S. EMPLOYEES

All health care benefits provided by Employer shall cease on the last day of the month of termination. Following a completion, participating employees are eligible for continuation of coverage in accordance with provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA). The Employer will notify you of your entitlements upon completion.

ACKNOWLEDGEMENT:

/s/ George E. Beasley
Name

Nov 20, 1990
Date

R-02-90-0831